

IC 4-6-3

Chapter 3. Duties in Civil Actions

IC 4-6-3-1

Definitions

Sec. 1. As used in this chapter:

"Documentary material" means the original or a copy of a book, record, report, memorandum, paper, communication, tabulation, chart, or other document.

"Local agency" means an administration, agency, authority, board, bureau, commission, committee, council, department division, institution, office, officer, service, or other similar body of a political subdivision created or established pursuant to law.

"Person" means a human being, an incorporated or unincorporated organization, or association, a trustee or legal representative, the state of Indiana, a political subdivision, a state or local agency, or a group of such persons acting in concert.

"Political subdivision" means a county, township, city, town, municipal corporation as defined in IC 36-1-2-10, or a special taxing district.

"State agency" means an administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, officer, service, or other similar body of state government created or established pursuant to law.

(Formerly: Acts 1899, c.133, s.1.) As amended by Acts 1982, P.L.20, SEC.1.

IC 4-6-3-2

Direction of prosecutions brought in the name of the state

Sec. 2. (a) The attorney general shall have charge of and direct the prosecution of all civil actions that are brought in the name of the state of Indiana or any state agency.

(b) In no instance under this section shall the state or a state agency be required to file a bond.

(c) This section does not affect the authority of prosecuting attorneys to prosecute civil actions.

As added by Acts 1982, P.L.20, SEC.2.

IC 4-6-3-3 Version a

Investigative demand; issuance

Note: This version of section effective until 1-1-2005. See also following version of this section, effective 1-1-2005.

Sec. 3. If the attorney general has reasonable cause to believe that a person may be in possession, custody, or control of documentary material, or may have knowledge of a fact that is relevant to an investigation conducted to determine if a person is or has been engaged in a violation of IC 4-6-9, IC 4-6-10, IC 13-14-10, IC 13-14-12, IC 13-24-2, IC 13-30-4, IC 13-30-5, IC 13-30-6, IC 13-30-8, IC 23-7-8, IC 24-1-2, IC 24-5-0.5, IC 24-5-7, IC 24-5-8, IC 25-1-7, IC 32-34-1, or any other statute enforced by the attorney

general, only the attorney general may issue in writing, and cause to be served upon the person or the person's representative or agent, an investigative demand that requires that the person served do any combination of the following:

- (1) Produce the documentary material for inspection and copying or reproduction.
- (2) Answer under oath and in writing written interrogatories.
- (3) Appear and testify under oath before the attorney general or the attorney general's duly authorized representative.

As added by Acts 1982, P.L.20, SEC.3. Amended by P.L.27-1983, SEC.1; P.L.12-1986, SEC.1; P.L.31-1995, SEC.1; P.L.1-1996, SEC.23; P.L.2-2002, SEC.24.

IC 4-6-3-3 Version b

Investigative demand; issuance

Note: This version of section effective 1-1-2005. See also preceding version of this section, effective until 1-1-2005.

Sec. 3. If the attorney general has reasonable cause to believe that a person may be in possession, custody, or control of documentary material, or may have knowledge of a fact that is relevant to an investigation conducted to determine if a person is or has been engaged in a violation of IC 4-6-9, IC 4-6-10, IC 13-14-10, IC 13-14-12, IC 13-24-2, IC 13-30-4, IC 13-30-5, IC 13-30-6, IC 13-30-8, IC 23-7-8, IC 24-1-2, IC 24-5-0.5, IC 24-5-7, IC 24-5-8, IC 24-9, IC 25-1-7, IC 32-34-1, or any other statute enforced by the attorney general, only the attorney general may issue in writing, and cause to be served upon the person or the person's representative or agent, an investigative demand that requires that the person served do any combination of the following:

- (1) Produce the documentary material for inspection and copying or reproduction.
- (2) Answer under oath and in writing written interrogatories.
- (3) Appear and testify under oath before the attorney general or the attorney general's duly authorized representative.

As added by Acts 1982, P.L.20, SEC.3. Amended by P.L.27-1983, SEC.1; P.L.12-1986, SEC.1; P.L.31-1995, SEC.1; P.L.1-1996, SEC.23; P.L.2-2002, SEC.24; P.L.73-2004, SEC.3.

IC 4-6-3-4

Investigative demand; required provisions

Sec. 4. An investigative demand shall contain the following:

- (1) A general description of the subject matter being investigated and a statement of the applicable provisions of law.
- (2) The date, time, and place at which the person is to appear, answer written interrogatories, or produce documentary material or other tangible items. The date shall not be less than ten (10) days from the date of service of the demand.
- (3) Where the production of documents or other tangible items is required, a description of those documents or items by class with sufficient clarity so that they might be reasonably

identified.

As added by Acts 1982, P.L.20, SEC.4.

IC 4-6-3-5

Investigative demand; prohibited provisions

Sec. 5. An investigative demand may not:

- (1) contain a requirement that would be unreasonable if contained in a subpoena or subpoena duces tecum issued by a court in a grand jury investigation; or
- (2) require the giving of oral testimony, the production of written answers to interrogatories, or the production of documentary material that would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court in aid of a grand jury investigation.

As added by Acts 1982, P.L.20, SEC.5.

IC 4-6-3-6

Application to enforce investigative demand; procedure; order

Sec. 6. If a person objects or otherwise fails to obey a written demand issued under section 3 of this chapter, the attorney general may file in the circuit or superior court of the county in which that person resides or maintains a principal place of business within the state an application for an order to enforce the demand. Notice of hearing and a copy of the application shall be served upon that person, who may appear in opposition to the application. The attorney general must demonstrate to the court that the demand is proper. If the court finds that the demand is proper, it shall order that person to comply with the demand, subject to such modification as the court may prescribe. Upon motion by that person and for good cause shown, the court may make any further order in the proceedings which justice requires to protect him from unreasonable annoyance, embarrassment, oppression, burden, expense, or to protect privileged information, trade secrets or information which is confidential under any other provision of law. If the court finds that either party has acted in bad faith in seeking or resisting the demand, it may order that person to pay the other parties reasonable expenses including attorneys' fees.

As added by Acts 1982, P.L.20, SEC.6.

IC 4-6-3-7

Certain evidence; admissibility in criminal prosecutions

Sec. 7. Evidence obtained from a human person pursuant to the provisions of this chapter may not be introduced in a subsequent criminal prosecution of that person unless it was obtained by a means independent of this chapter.

As added by Acts 1982, P.L.20, SEC.7.

IC 4-6-3-8

Abridgment of limitations on self-incrimination prohibited

Sec. 8. This chapter shall not be construed to limit or abridge any

limitation on self-incrimination established by law.
As added by Acts 1982, P.L.20, SEC.8.

IC 4-6-3-9

Materials obtained under investigative demand; confidentiality

Sec. 9. All documentary material, answers to written interrogatories, and transcripts of oral testimony that are provided pursuant to an investigative demand shall be kept confidential by the attorney general until an action is filed against a person for the violation under investigation, unless confidentiality is waived by the person being investigated and the person who has testified, answered interrogatories, or produced documentary material, or unless disclosure is authorized by the court for the purposes of interstate cooperation in law enforcement of state or federal laws.

As added by Acts 1982, P.L.20, SEC.9.

IC 4-6-3-10

Documentary material; custody, use, and preservation

Sec. 10. The attorney general is responsible for the custody, use, and necessary preservation of the documentary material made available pursuant to an investigative demand and for its return as provided by this chapter.

As added by Acts 1982, P.L.20, SEC.10.

IC 4-6-3-11

Documentary material; return

Sec. 11. When original documentary material made available pursuant to an investigative demand is no longer required for use in a pending proceeding, or, absent any pending proceeding, is no longer required in connection with the investigation for which it was demanded, or at the end of the twenty-four (24) months following the date when the material was made available, whichever is sooner, it shall be returned, unless a request to extend the period beyond twenty-four (24) months has been filed in a court in which a request for an order compelling compliance pursuant to section 6 of this chapter be filed. This section does not require the return of documentary material that has passed into the control of a court or grand jury.

As added by Acts 1982, P.L.20, SEC.11.

IC 4-6-3-12

Compliance inspections into destruction of handgun purchase records

Sec. 12. (a) Upon receipt of a complaint that records of handgun purchases are not being timely destroyed as required by IC 35-47-2.5-8, the attorney general shall conduct a compliance inspection to substantiate compliance.

(b) The attorney general shall report the findings of inspections made under this subsection to the governor and to the presiding officer of each house of the general assembly.

As added by P.L.17-1997, SEC.1.